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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2013	.	
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The Committee on Commerce and Tourism (Detert) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 501.0051, Florida Statutes, is created
to read:

501.0051 Protected consumer security freeze.-

(1) As used in this section, the term:

(a) "Consumer reporting agency" has the same meaning as
provided in 15 U.S.C. s. 1681a(f).

(b) "Consumer report" has the same meaning as provided in
15 U.S.C. s. 1681a(d).

(c) "Protected consumer" means a person younger than 16



13 years of age at the time a security freeze request is made or a
14 person represented by a guardian or other advocate pursuant to
15 chapter 39, chapter 393, chapter 744, or chapter 914.

16 (d) "Record" means a compilation of information that:

17 1. Identifies a protected consumer;

18 2. Is created by a consumer reporting agency exclusively
19 for the purpose of complying with this section; and

20 3. May not be created or used to consider the protected
21 consumer's credit worthiness, credit standing, credit capacity,
22 character, general reputation, personal characteristics, or
23 eligibility for other financial services.

24 (e) "Representative" means the custodial parent or legal
25 guardian of a protected consumer, including a guardian appointed
26 pursuant to s. 914.17.

27 (f) "Security freeze" means:

28 1. A notice that is placed on the protected consumer's
29 consumer report that prohibits a consumer reporting agency from
30 releasing the consumer report, credit score, or any information
31 contained within the consumer report to a third party without
32 the express authorization of the representative; or

33 2. A notice that is placed on the protected consumer's
34 record that prohibits the consumer reporting agency from
35 releasing the protected consumer's record except as provided in
36 this section, if a consumer reporting agency does not have a
37 file pertaining to the protected consumer.

38 (g) "Sufficient proof of authority" means documentation
39 that shows that a representative has authority to act on behalf
40 of a protected consumer. Sufficient proof of authority includes,
41 but is not limited to, a court order, valid power of attorney,



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42 or a written notarized statement signed by a representative that
43 expressly describes the authority of the representative to act
44 on behalf of the protected consumer.

45 (h) "Sufficient proof of identification" means
46 documentation that identifies a protected consumer or a
47 representative of a protected consumer. Sufficient proof of
48 identification includes, but is not limited to, a copy of a
49 social security card, a certified or official copy of a birth
50 certificate, a copy of a valid driver license, or a government-
51 issued photo identification.

52 (2) A representative may place a security freeze on a
53 protected consumer's consumer record by:

54 (a) Submitting a request to a consumer reporting agency in
55 the manner prescribed by that agency;

56 (b) Providing the agency with sufficient proof of authority
57 and sufficient proof of identification; and

58 (c) Paying the agency a fee as authorized under this
59 section.

60 (3) If a consumer reporting agency does not have a consumer
61 report pertaining to a protected consumer when the consumer
62 reporting agency receives a request for a security freeze under
63 subsection (2), the consumer reporting agency shall create a
64 record for the protected consumer and place a security freeze on
65 the record.

66 (4) A consumer reporting agency shall place a security
67 freeze on a consumer record within 30 calendar days after
68 confirming the authenticity of a security freeze request made in
69 accordance with this section.

70 (5) The consumer reporting agency shall send a written



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71 confirmation of the security freeze to the representative within
72 10 business days after instituting the security freeze and shall
73 provide the representative with instructions for removing the
74 security freeze and a unique personal identifier to be used by
75 the representative when providing authorization for removal of a
76 security freeze.

77 (6) A consumer reporting agency may not state or imply to
78 any person that a security freeze on a protected consumer's
79 consumer record reflects a negative credit score, negative
80 credit history, or a negative credit rating.

81 (7) A consumer reporting agency shall remove a security
82 freeze placed on a consumer record of a protected consumer only
83 in the following instances:

84 (a) Upon request of a representative pursuant to paragraph
85 (8) (a).

86 (b) Upon request of a protected consumer pursuant to
87 paragraph (8) (b).

88 (c) If the security freeze was instituted due to a material
89 misrepresentation of fact by a representative. If a consumer
90 reporting agency intends to remove a security freeze pursuant to
91 this paragraph, the consumer reporting agency shall notify the
92 representative in writing before removing the security freeze.

93 (8) A security freeze placed in accordance with this
94 section shall remain in place until a representative or
95 protected consumer requests that it be removed. A consumer
96 reporting agency shall remove a security freeze within 30
97 calendar days after receiving a request for removal from a
98 protected consumer or representative.

99 (a) A representative submitting a request for removal must



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100 provide the following:

101 1. Sufficient proof of identification and sufficient proof
102 of authority as determined by the consumer reporting agency.

103 2. The unique personal identifier provided by the consumer
104 reporting agency pursuant to subsection (5).

105 3. Payment of a fee as authorized by this section.

106 (b) A protected consumer submitting a request for removal
107 must provide the following:

108 1. Sufficient proof of identification as determined by the
109 consumer reporting agency.

110 2. Documentation that the sufficient proof of authority for
111 the protected consumer's representative to act on behalf of the
112 protected consumer is no longer valid.

113 (9) This section does not apply to use of a consumer record
114 by the following persons or for the following reasons:

115 (a) A state agency acting within its lawful investigative
116 or regulatory authority.

117 (b) A state or local law enforcement agency investigating a
118 crime or conducting a criminal background check.

119 (c) Any person administering a credit file monitoring
120 subscription service to which the protected consumer has
121 subscribed.

122 (d) Any person for the purpose of providing the protected
123 consumer's consumer report upon the representative's request.

124 (e) Any person with a court order lawfully entered.

125 (f) Any insurance company for use in setting or adjusting a
126 rate, adjusting a claim, or underwriting for insurance purposes.

127 (g) A consumer reporting agency's database or file which
128 consists entirely of information concerning, and is used



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129 exclusively for, one or more of the following:

130 1. Criminal record information.

131 2. Personal loss history information.

132 3. Fraud prevention or detection.

133 4. Tenant screening.

134 5. Employment screening.

135 6. Personal insurance policy information.

136 7. Noncredit information used for insurance purposes.

137 (h) A check services company that issues authorizations for
138 the purpose of approving or processing negotiable instruments,
139 electronic funds transfers, or similar methods of payment.

140 (i) A deposit account information service company that
141 issues reports regarding account closures due to fraud,
142 substantial overdrafts, automatic teller machine abuse, or
143 similar negative information regarding a protected consumer to
144 an inquiring financial institution, as defined in s. 655.005 or
145 in federal law, for use only in reviewing a representative's
146 request for a deposit account for the protected consumer at the
147 inquiring financial institution.

148 (j) A consumer reporting agency that acts only as a
149 reseller of credit information by assembling and merging
150 information contained in the database of another consumer
151 reporting agency or multiple consumer reporting agencies and
152 does not maintain a permanent database of credit information
153 from which new consumer reports are produced. However, a
154 consumer reporting agency shall honor any security freeze placed
155 or removed by another consumer reporting agency.

156 (k) A fraud prevention services company issuing reports to
157 prevent or investigate fraud.



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158 (10) (a) A consumer reporting agency may charge a reasonable
159 fee, not to exceed \$10, to a representative who elects to place
160 or remove a security freeze.

161 (b) A consumer reporting agency may charge a reasonable
162 fee, not to exceed \$10, if the representative fails to retain
163 the original personal identifier provided by the consumer
164 reporting agency and the agency must reissue the personal
165 identifier or provide a new personal identifier to the
166 representative.

167 (c) A consumer reporting agency may not charge any fee
168 under this section to a representative of a protected consumer
169 who is a victim of identity theft if the representative submits,
170 at the time the security freeze is requested, a copy of a valid
171 investigative report or incident report or complaint with a law
172 enforcement agency about the unlawful use of the protected
173 consumer's identifying information by another person.

174 (11) If a security freeze is in effect, a consumer
175 reporting agency may not change any of the following official
176 information in the consumer record without sending a written
177 confirmation of the change to the representative within 30
178 calendar days after the change is posted to the protected
179 consumer's record:

180 (a) The protected consumer's name.

181 (b) The protected consumer's address.

182 (c) The protected consumer's date of birth.

183 (d) The protected consumer's social security number.

184
185 Written confirmation is not required for technical
186 corrections of a protected consumer's official information,



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187 including name and street abbreviations, complete spellings, or
188 transposition of numbers or letters. In the case of an address
189 change, the written confirmation must be sent to both the new
190 address and the former address.

191 (12) If a consumer reporting agency violates a security
192 freeze placed in accordance with this section by releasing
193 information subject to a security freeze without proper
194 authorization, the consumer reporting agency shall, within 5
195 business days after discovering or being notified of the release
196 of information, notify the representative of the protected
197 consumer in writing. The notice shall state the specific
198 information released, and provide the name, address, and other
199 contact information of the recipient of the information.

200 (13) A consumer reporting agency that willfully fails to
201 comply with any requirement imposed under this section with
202 respect to a representative or protected consumer is subject to
203 an administrative fine in the amount of \$500 issued pursuant to
204 the administrative procedures established in chapter 120 by the
205 Department of Agriculture and Consumer Services.

206 (14) A person who is aggrieved by a violation of the
207 provisions of this section may bring a civil action as
208 authorized by this subsection.

209 (a) Any person who obtains a record under false pretenses
210 or knowingly without a permissible purpose is liable to the
211 representative and protected consumer for damages of at least
212 \$1,000 or the actual damages sustained by the protected consumer
213 as a result of the violation, whichever is greater.

214 (b) Any person who obtains a record from a consumer
215 reporting agency under false pretenses or knowingly without a



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216 permissible purpose is liable to the consumer reporting agency
217 for actual damages sustained by the consumer reporting agency or
218 \$1,000, whichever is greater.

219 (15) Any written disclosure by a consumer reporting agency,
220 pursuant to 15 U.S.C. s. 1681g, to any representative and
221 protected consumer residing in this state must include a written
222 summary of all rights the representative and protected consumer
223 have under this section and, in the case of a consumer reporting
224 agency that compiles and maintains records on a nationwide
225 basis, a toll-free telephone number which the representative can
226 use to communicate with the consumer reporting agency. The
227 information set forth in paragraph (b) of the written summary of
228 rights must be in at least 12-point boldface type. The written
229 summary of rights required under this section is sufficient if
230 it is substantially in the following form:

231 (a) If you are the custodial parent or legal guardian of a
232 minor younger than 16 years of age or a guardian or advocate of
233 an incapacitated, disabled, or protected person under chapter
234 39, chapter 393, chapter 744, or chapter 914, Florida Statutes,
235 you have a right to place a security freeze on the consumer
236 report of the person you are legally authorized to care for. If
237 no consumer report exists, you have a right to request a record
238 to be created and a security freeze to be placed on the record.
239 A record with a security freeze is intended to prevent the
240 opening of credit accounts until the security freeze is removed.

241 (b) YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO
242 CONTROL ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN THE
243 CONSUMER RECORD MAY DELAY, INTERFERE WITH, OR PROHIBIT THE
244 TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION



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245 REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE, GOVERNMENT
246 SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT, INVESTMENT,
247 LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL SIGNATURE, INTERNET
248 CREDIT CARD TRANSACTION, OR OTHER SERVICES, INCLUDING AN
249 EXTENSION OF CREDIT AT POINT OF SALE.

250 (c) When you place a security freeze on the protected
251 consumer's record you will be provided a process to use if you
252 choose to remove the freeze on the record or authorize the
253 release of the record. To provide that authorization, you must
254 contact the consumer reporting agency and provide all of the
255 following:

256 1. The personal identification required by the consumer
257 reporting agency.

258 2. Sufficient proof of authority over the protected
259 consumer.

260 3. Payment of a fee.

261 (d) A consumer reporting agency must authorize the release
262 of the record no later than 30 calendar days after receiving the
263 above information, or the consumer report no later than 3
264 business days after receiving the above information.

265 (e) A security freeze does not apply to a person or entity,
266 or its affiliates, or collection agencies acting on behalf of
267 the person or entity with which the protected consumer has an
268 existing account that requests information in the protected
269 consumer's consumer report for the purposes of reviewing or
270 collecting the account. Reviewing the account includes
271 activities related to account maintenance, monitoring, credit
272 line increases, and account upgrades and enhancements.

273 (f) You have the right to bring a civil action as



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274 authorized by s. 501.0051, Florida Statutes, which governs the
275 security of protected consumer information.

276 Section 2. This act shall take effect September 1, 2013.
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279 ===== T I T L E A M E N D M E N T =====

280 And the title is amended as follows:

281 Delete everything before the enacting clause
282 and insert:

283 A bill to be entitled

284 An act relating to security of protected consumer
285 information; creating s. 501.0051, F.S.; providing definitions;
286 authorizing the representative of a protected consumer to place
287 a security freeze on the protected consumer's consumer record;
288 requiring a consumer reporting agency to establish a record if
289 the protected consumer does not have an existing consumer
290 report; requiring a consumer reporting agency to provide written
291 confirmation of a security freeze within a specified period;
292 prohibiting a consumer reporting agency from stating or implying
293 that a security freeze reflects a negative credit history or
294 rating; requiring a consumer reporting agency to remove a
295 security freeze under specified conditions; providing for
296 applicability; authorizing a consumer reporting agency to charge
297 a fee for placing or removing a security freeze and for
298 reissuing personal identification information; prohibiting a fee
299 under certain circumstances; requiring written notification to
300 change specified information in a protected consumer's record;
301 providing exemptions; requiring a consumer reporting agency to
302 notify a representative and provide specified information if the



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303 consumer reporting agency violates a security freeze; providing
304 penalties and civil remedies; providing written disclosure
305 requirements for consumer reporting agencies pertaining to
306 protected consumer security freezes; providing an effective
307 date.
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